THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.7340 OF 2006

ORDER:

This writ petition is filed challenging the order in case No.D5/P5/16/2005, dated 18.10.2005, passed by the Joint Collector, Ranga Reddy District, the second respondent herein. The petitioner seeks a writ of certiorari to quash the same and for further declaration that the orders of the appellate authority, the third respondent herein, as confirmed by the revisional authority are not valid and binding on the petitioner in respect of the lands or on the mutation proceedings, dated 01.08.2002, issued by the fourth respondent in his favour. He also seeks consequential injunction restraining the respondents from interfering with possession of the petitioner.

The brief fact of the matter is as follows. The petitioner purchased an extent of Acs.4.00 guntas under registered sale deed, dated 10.12.1983, for consideration of Rs.40,000/- from Mysagari Bhagirathamma and Mysagari Suseela, who are statedly were owners of large extent of lands comprised in survey Nos.242, 243, 244 and 246. After purchasing the land, the petitioner fensed it, dug a bore well and obtained electrical connection. He allegedly is availing free power supply for his agricultural pumps. The petitioner applied for necessary changes in the record of rights in accordance with A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity). The fourth respondent, which is recording authority, issued pattadar No.424 and title deed, dated 01.08.2002 in the name of the petitioner as alleged. The petitioner states that in December, 2005, his neighbours, who also purchased the land, proclaimed that the petitioner's patta was cancelled and that he would be evicted from the land. The fourth respondent, when he came to know that the third respondent exercising powers under Section 5 of the Act allowed the appeal of the fifth respondent by treating letters sent by him as an appeal, some of the aggrieved persons filed revision before the second respondent under section 9 of the Act. The same was dismissed affirming the order of the fifth respondent, whereby and whereunder the necessary entries in the Record of Rights by the Mandal Revenue Officer are set aside duly canceling the pattadar pass books and title deeds in respect of the entire land in survey Nos.79, 80, 242, 243 and 244 of Bahadurpally village, Quthbullapur Mandal in Ranga Reddy District. The revisional order of the second respondent is subject matter of this writ petition.

Be it noted, the petitioner herein, was not a party either before the appellate authority or revisional authority.

The learned counsel for the petitioner submits that when pattadar passbook was issued by the fourth respondent, an enquiry was conducted after inviting objections under Section 5(3) of the Act. However, when the fourth respondent treated the letter of the fifth respondent as an appeal under Section 5(5) of the Act, no notice was issued to all the persons who purchased the lands subsequently and who obtained pattadar passbooks. Secondly, learned counsel submits that the letter addressed by the fifth respondent cannot be treated as an appeal. Thirdly, he submits that one

officer by name, Sri K.Ramulu, who was Mandal Revenue Officer, who initially issued proceedings on 01.08.2002 for issue of pattadar passbooks, became the Special Deputy Collector and entertained the appeal, and therefore, the same is void under law. The learned counsel also disputes the premise on the basis of which, the third respondent and second respondent cancelled the pattadar passbooks.

The Act and the A.P.Rights in Land and Pattadar Pass Books Rules, 1989 (the Rules, for brevity) are very comprehensive in relation to the law relating to the Rules. The procedure for preparation, updating and issue of record of rights is contained in Sections 3 and 4 of the Act. Section 5 of the Act deals with amendment or alteration of record of rights. Whenever the acquisition of any rights is reported to the recording authority i.e., Mandal Revenue Officer, any person aggrieved by any amendments as ordered under Section 5(3), may appeal under Section 5(5) of the Act. In addition to this Rule 13 of the Rules confer *suo motu* powers on Mandal Revenue Officer, Revenue Divisional Officer, Deputy Collector, District Revenue Officer and/or the Collector of the District to *suo motu* test, revise and cancel the entries in the record of rights. When the third respondent entertained an application made by the fifth respondent, which can be inquired that the power was exercised under Rule 13 of the Rules. Therefore, this Court does not find impropriety in the action of the third respondent in treating the application of the fifth respondent as an appeal.

A perusal of the order, dated 30.03.2005, passed by the third respondent would reveal that the entire extent of land admeasuring Acs.37.32 guntas in survey Nos.79, 80, 242, 243, 244 and 246 of Bhahadurpally village was acquired by the Government in 1989 and possession and title vested in the Government. Compensation was paid to various owners and after passing an award under Section 11 of the Land Acquisition Act, 1894, the land acquisition officer took possession of the property, by reason of which, all the rights stood extinguished. Be it noted that under Section 16 of the Land Acquisition Act, when once the award is made under Section 11, the land absolutely vests in the Government, free from all encumbrances. Due to this, the third respondent came to the conclusion that mere appearance of the names of the original pattadars and subsequent purchasers in revenue records does not confer any right on them. The third respondent verified the record and came to the conclusion that the transactions entered in the revenue records are not valid and mutation is void *ab initio.* The revisional authority again after perusing the record, noticed as under.

> It is seen that the Special Deputy Collector, Land Acquisition (General), Hyderabad, passed award U/s.30 and 31(2) of the Land Acquisition Act in his Proceedings No.J/1760/1987, dated 18.06.1991, in respect of land to an extent of 1-12, 0.07, 6.33, 20.17 and 9.03 acres situated at Bahadurpally village of Quthbullapur Mandal. The compensation amount worked out @ Rs.6/- per Square Yard was ordered to be deposited in the Civil Court as there was no clearance received from the LRT, Ranga Reddy District and Mandal Revenue Officer, Quthbullapur in the ceiling aspect in respect of the land under acquisition. The possession of the said lands was taken over by the Deputy Tahsildar of O/o the Special Deputy Collector, L.A.

(General), Hyderabad on 18.09.1989. There are signatures of the Pattadars and occupants on the Panchanama of taking over possession conducted by the Deputy Tahsildar. On making an award U/s.11 of the Land Acquisition Act and on his taking over possession, the property shall vest absolutely in the Government. The effect of land acquisition proceedings is to extinguish the rights of the owners and occupants in the land and to vest them absolutely in Government. Mere appearance of the names of the original Pattadars and their subsequent purchasers in the revenue records does not confer on them any legal rights.

As seen from the above observations, both the authorities found that by reason of the award passed under Section 11 of the Land Acquisition Act, the land vested in the Government. Here, it may be noticed that under Section 12 of the Act, nothing therein shall apply to the lands belonging to the State Government or Central Government. Therefore, the question of making entries in the record of rights or issue pattadar passbooks would not arise. Here, it may also be observed that even assuming that there is an element of inadvertence in ignoring the ground position while passing the orders, the petitioners are not without any remedy. Section 8 of the Act lays down that if any person is aggrieved, by any entries in the record of rights in respect of property in possession, he may institute a suit against any person denying the title to such right for declaration of his right under Chapter VI of Specific Relief Act, 1963 and then the entry in the record of rights shall be amended in accordance with the declaration by the Court. Therefore, the remedy of the petitioner is to file a suit before the civil Court. The writ petition is not a proper remedy.

The writ petition is accordingly dismissed. No costs.

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(V.V.S.RAO,J)

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